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6 LEON FAUNTLEROY JR., et al.,7
8 No. C 10-1468 MHP

9 Plaintiffs,

10 v.

11 GMAC MORTGAGE CORPORATION, et al.,

12 Defendants.

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14 **MEMORANDUM & ORDER****15 Re: Defendants' Motion to Dismiss**16 On April 7, 2010, plaintiffs filed a complaint with this court alleging claims under the Truth
17 in Lending Act, 15 U.S.C. section 1601 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C.
18 section 1692 *et seq.*, and California Business and Professions Code section 17200.19 On April 29, 2010, all defendants moved to dismiss plaintiffs' complaint for failure to state a
20 claim. Docket No. 4 (Motion). On May 20, 2010, plaintiffs attempted to file an amended complaint.
21 See Docket Sheet. On May 25, 2010, the court stated:22 The complaint in this case satisfies neither Rule 8(a) or the *Iqbal-Twombly*
23 requirements. Defendants have filed a motion to dismiss the complaint on these and
24 other grounds. In the meantime plaintiffs have filed another 'complaint' which is
25 even more verbose and more than twice as long as the first. This would, of course,
ordinarily be an amended complaint and since no responsive pleading has been filed,
a plaintiff may amend once as a matter of course. Fed. R. Civ. P. 15(a)(1). However,
the court declines to accept the filing of this pleading. It will be lodged with the
court. This new complaint fails all the requirements of Rule 8(a), *Iqbal* and *Twombly*.
Defendants should not have to respond to a document this voluminous and
incomprehensible and no court should have to wade through such a morass.26 Docket No. 13 (Order) at 2. The court specifically stated that "Plaintiffs' date for filing an
27 opposition to defendants' motion, which reaches the merits of the case, is June 7, 2010." *Id.*
28 Plaintiffs failed to oppose the motion to dismiss. Docket No. 17 (Notice).

United States District Court

For the Northern District of California

1 The absence of any opposition is a concession that defendants' arguments are meritorious.
2 *Offril v. J.C. Penny Co., Inc.*, No. C 08-5050 PJH, 2009 WL 69344, at *1, *4 (N.D. Cal. Jan. 9,
3 2009) (Hamilton, J.) (granting unopposed motion to dismiss without leave to amend); *Freeman for*
4 *Thomas v. Ellen*, No. C 98-0445 MMC, 1998 WL 164948, *1, *3-4 (N.D. Cal. Mar. 16, 1998)
5 (Chesney, J.) (granting unopposed motion to dismiss without leave to amend); *Stewart v. City and*
6 *County of San Francisco*, No. C 08-5434 SBA, 2009 WL 1331101, at *1-2 (N.D. Cal. May 13,
7 2009) (Armstrong, J.) (granting unopposed motion for judgment on the pleading with prejudice);
8 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (per curiam) (affirming order granting motion
9 to dismiss where plaintiff failed to respond to motion).

10 Accordingly, defendants' motion to dismiss is GRANTED and the complaint is DISMISSED
11 in its entirety.

12 The Clerk of Court shall close the file.

13 IT IS SO ORDERED.

14 Dated: June 21, 2010



MARILYN HALL PATEL
United States District Court Judge
Northern District of California

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